

AMENDED IN ASSEMBLY MARCH 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 244

Introduced by Assembly Member Maze

(Principal coauthor: Assembly Member Aghazarian)

(Coauthors: Assembly Members Bates, Benoit, Bogh, Campbell, Cogdill, Cox, Dutton, Haynes, Houston, Pacheco, Plescia, Runner, and Wyland)

(Coauthors: Senators Aanestad, Ashburn, Johnson, Knight, Margett, Morrow, and Oller)

February 3, 2003

An act to amend Sections 510, 554, 556, and 1182.1 of, to add Section 1183.5 to, and to repeal Sections 500, 511, 512, 513, 514, 515.5, 515.6, and 517 of, the Labor Code, relating to wages.

LEGISLATIVE COUNSEL'S DIGEST

AB 244, as amended, Maze. Wages: overtime.

Existing law provides that, except for an employee working an alternative workweek schedule and for certain occupations, hours worked in excess of 8 hours a day, in excess of 40 hours a week, and the first 8 hours worked on a 7th day of work are to be compensated at a rate at least $1\frac{1}{2}$ times the regular rate of pay, and hours worked in excess of 12 hours a day and in excess of 8 hours on the 7th day of work are to be compensated at a rate at least twice the regular rate of pay. Employers are subject to civil penalties for violating these requirements. The Labor Commissioner is authorized to issue citations for violations.

This bill would provide that parties may agree as to the number of hours that constitute a day's work. It would remove the requirement that work in excess of 8 hours a day, in excess of 40 hours a week, and the first 8 hours on the 7th day of work are to be compensated at no less than 1½ times the regular rate of pay, and hours worked in excess of 12 hours a day and in excess of 8 hours on the 7th day of work are to be compensated at no less than twice the regular rate of pay. The bill would also provide that any employer who intends to use a flexible scheduling technique, as permitted by an order of the Industrial Welfare Commission, is required to make full written disclosure to all employees.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 500 of the Labor Code is repealed.
- 2 SEC. 2. Section 510 of the Labor Code is amended to read:
- 3 510. Eight hours of labor constitutes a day's work unless it is
- 4 otherwise expressly stipulated by the parties to a contract. Time
- 5 spent commuting to and from the first place at which an
- 6 employee's presence is required by the employer shall not be
- 7 considered to be a part of a day's work, when the employee
- 8 commutes in a vehicle that is owned, leased, or subsidized by the
- 9 employer and is used for the purpose of ridesharing, as defined in
- 10 Section 522 of the Vehicle Code.
- 11 This section does not affect, change, or limit an employer's
- 12 liability under the workers' compensation law.
- 13 SEC. 3. Section 511 of the Labor Code is repealed.
- 14 SEC. 4. Section 512 of the Labor Code is repealed.
- 15 SEC. 5. Section 513 of the Labor Code is repealed.
- 16 SEC. 6. Section 514 of the Labor Code is repealed.
- 17 SEC. 7. Section 515.5 of the Labor Code is repealed.
- 18 SEC. 8. Section 515.6 of the Labor Code is repealed.
- 19 SEC. 9. Section 517 of the Labor Code is repealed.
- 20 SEC. 10. Section 554 of the Labor Code is amended to read:
- 21 554. (a) This chapter shall not apply to any cases of
- 22 emergency nor to work performed in the necessary care of animals,
- 23 crops, or agricultural lands, nor to work performed in the
- 24 protection of life or property from loss or destruction, nor to any



1 common carrier engaged in or connected with the movement of
2 trains. Nor shall the provisions of this chapter apply when the
3 employer and a labor organization representing employees of the
4 employer have entered into a valid collective bargaining
5 agreement respecting the hours of work of the employees. Nothing
6 in this chapter shall be construed to prevent an accumulation of
7 days of rest when the nature of the employment reasonably
8 requires that the employee work seven or more consecutive days,
9 if in each calendar month the employee receives days of rest
10 equivalent to one day's rest in seven. The requirement respecting
11 the equivalent of one day's rest in seven shall apply,
12 notwithstanding the other provisions of this chapter relating to
13 collective bargaining agreements, where the employer and a labor
14 organization representing employees of the employer have entered
15 into a valid collective bargaining agreement respecting the hours
16 of work of the employees, unless the agreement expressly provides
17 otherwise.

18 (b) In addition to the exceptions specified in subdivision (a),
19 the Chief of the Division of Labor Standards Enforcement may,
20 when in his or her judgment hardship will result, exempt any
21 employer or employees from the provisions of this chapter.
22 Nothing contained herein shall affect contracts in existence on the
23 effective date of this amendment.

24 SEC. 11. Section 556 of the Labor Code is amended to read:
25 556. This chapter shall not apply to any employer or
26 employee when the total hours of employment do not exceed 30
27 hours in any week or six hours in any one day thereof.

28 SEC. 12. Section 1182.1 of the Labor Code is amended to
29 read:

30 1182.1. Any action taken by the commission pursuant to
31 Section 1182 shall be published in at least one newspaper in each
32 of the Cities of Los Angeles, Sacramento, Oakland, San Jose,
33 Fresno, San Diego, and San Francisco. A summary of the action
34 taken and notice of where the complete text of the new or amended
35 order may be obtained may be published in lieu of the complete
36 text when the commission determines summary and notice will
37 adequately inform the public. The statement as to the basis of the
38 order need not be published.

39 SEC. 13. Section 1183.5 is added to the Labor Code, to read:

1 1183.5. (a) Any employer who intends to use a flexible
2 scheduling technique, as permitted by an order of the Industrial
3 Welfare Commission, requiring a vote of the affected employees
4 shall make a full disclosure in writing to each of the affected
5 employees. The notice shall include the effects of the proposed
6 scheduling, including the employees' wages, hours, and benefits.
7 The employer shall not be required to distribute the notice to
8 employees on a leave of absence for any cause.
9 (b) Within the health care industry, the disclosure shall include
10 meetings, duly noticed, for the specific purpose of discussing the
11 effects of flexible scheduling.
12 (c) Failure to comply with this section shall make the election
13 null and void.

